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SUBJECT: CONGRESS MOVES TOWARDS APPROVAL OF CONTROVERSIAL
VICTIM'S LAW

Classified By: Political Counselor John S. Creamer
Reasons 1.4 (b) and (d).

11. (SBU) Summary: Victim's of Colombia's conflict have suffered death, kidnapping, rape, and the loss of land and other assets. The Justice and Peace Law (JPL) was the GOC's initial attempt to provide reparations to victims. Still, to date almost no victims have received reparations under the JPL. The opposition and the governing coalition are promoting competing victims bills, with the Senate approving the opposition version and the lower house debating the GOC bill. The Senate bill would expedite reparation payments and land restitution to all victims, including victims of GOC officials. In contrast, the GOC bill would allow for reparations to victims of state agents only after a judicial determination, and would defer the land issue to separate legislation. The GOC estimates that reparations and restitution could cost as much as \$3 billion dollars in the coming years. End Summary.

JPL Brings Justice But Not Reparations

12. (U) The Justice and Peace Law (JPL) was approved in 2005 and attempts to balance the need for justice with the needs of the peace process. The JPL included provisions to make reparations to victims of Colombia's conflict, but to date almost no reparations have been paid. After criticism from civil society, as well as recommendations by the National Commission of Reparations and Reconciliation (CNRR), President Uribe signed a decree on April 22, 2008 to provide administrative reparations to paramilitary, FARC and ELN. On April 21 of this year, the GOC announced that it would begin paying reparations to 12,000 victims in May. The 12,000 were chosen from among those injured by landmines, people who were forcibly recruited as children into illegal armed groups, and women who endured sexual assaults. Victims will receive between \$4550 and \$8500. The initial GOC budget for the administrative process is \$84 million.

Opposition Bill

13. (SBU) The slow pace of reparations to victims led opposition Liberal Party Senator Juan Fernando Cristo to introduce a Victims bill in the Senate (Law 157 2007) which would require the GOC to provide reparations to all victims. The bill is designed to streamline the disparate judicial and GOC entities responsible for reparations and restitution, and aims to expedite payment of monetary reparations and land

restitution. The bill would complement, not replace, victims' rights to seek relief through the judicial process. Cristo's version of the bill was approved in the Senate on June 18, 2008 with little opposition. GOC supporters criticized elements of the legislation, but did not openly oppose it.

¶4. (U) Cristo's bill applies the "universality" principle in defining victims, meaning it would grant reparations to victims of state agents as well as victims of illegal armed groups. The bill provides for land restitution as well as monetary compensation, but it does not set up mechanisms to administer the process nor identify funding sources. Cristo told us that in conjunction with the United Nations and human rights groups, the opposition held nine consultations with victims' groups and incorporated their suggestions into the bill. The GOC did not participate in the consultations. Cristo claims that at most there may be 10,000 victims of state actors.

¶5. (U) Asked about funding, Cristo said it is the GOC's duty to find the resources to ensure all victims are provided reparations, land, and justice. He questioned the GOC's proposed mechanisms for implementing its reparations scheme, saying the administrative process is overly rigid. Cristo argued that the GOC should not be the main actor involved in implementation, proposing that judicial and/or outside mechanisms assume this role. Currently, Accion Social has approximately 200,000 victims registered in its database. A local human rights group--the Committee for Human Rights and Displacement (CODHES)--claims the nearly four million displaced must be incorporated into any new victims program.

¶6. (SBU) Cristo also rejected the GOC proposal for a separate bill dealing with land, saying it would further delay restitution to victims. Ivan Cepeda, Director of the Movement of Victims of State Agents and Paramilitaries, said that for land restitution to be successful, a separate government mechanism with flexibility, funding and decision making authority will be needed. He also asserted that regional monitoring mechanisms outside of the GOC should be set up to oversee the law's implementation and to ensure transparency.

GOC's Introduces Own Bill on Victims

¶7. (U) In reaction to the Senate bill, the GOC introduced its own Victims bill in the House (Law 044 2008). The bill more narrowly defines who are "victims" and specifies mechanisms and budgets for implementation. The GOC believes that "victims" of state actors should be treated differently from victims of illegal armed groups, requiring that their claims be adjudicated individually in a court before they can receive reparations. The GOC also wants to tackle the more complicated issue of land restitution in a later, separate bill. Interior and Justice Ministry Director for Transitional Justice Heidi Abuchaibe said the GOC bill would use JPL offices around the country--originally set up to receive voluntary confessions from demobilized paramilitaries--to register victims, oversee land recovery and decide individual cases.

¶8. (U) Abuchaibe told us that under the GOC bill, courts would continue to hear civil cases brought by victims against paramilitary leaders, and victims would still be able to receive reparations from these cases. The bill would codify the GOC's current administrative reparations scheme for paying reparations, which would continue to be managed by Accion Social. Participation in this process would not preclude victims from receiving additional reparations under judicial rulings, but any funds paid under the administrative process would be subtracted from future monetary awards in court rulings. The Victims bill would also create a National System for Attention, Assistance and Humanitarian Aid to Victims of Violence, which would help displaced persons access the services provided under the bill.

GOC Mechanisms and Budget for Reparations

¶9. (U) Interior and Justice Minister Fabio Valencia argues that any victim's law will need to be fiscally viable if it is to have any impact. Many of the changes introduced in the GOC's bill address funding issues. The GOC estimates that its legislation could cost as much as \$3 billion to implement. Funding for reparations and land for restitution comes from forfeited assets from former paramilitaries and other criminals and funds allocated by the GOC for reparations. Eduardo Pizarro, head of Colombia's Reparations and Reconciliation Commission (CNRR), told us that in addition to the \$84 million allocated by the GOC, CNRR has frozen \$113 million in assets from paramilitary chiefs for reparations/restitution.

Next Steps: 4th and Final Debate

¶10. (C) There are fundamental differences--such as the definition of a victim, treatment of land issues, identification of funding, and the mechanisms for implementation--between the Senate and House bills. The fourth and final vote on the GOC bill has been postponed by MOIJ pending a review of the text by their lawyers to ensure compliance with a February 16, 2009 Constitutional Court ruling on whether IDPs are entitled to reparations. Valencia told us that he has the votes to get the bill approved in the next debate. He will then work with Cristo and the opposition to resolve the differences between the Senate and House versions, but believes the GOC bill will prevail.

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